

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Richmond Division

MICHAEL T. DREHER,
Plaintiff,

v.

Case No. 3:11-cv-00624-JAG

EXPERIAN INFORMATION SOLUTIONS, INC.,
Defendant.

MEMORANDUM ORDER

THIS MATTER is before the Court on the motion to seal portions of defendant Experian Information Solutions, Inc.'s ("Experian") memorandum in support of its motion for partial summary judgment. (Dk. No. 43.) The motion to seal was filed by Experian, even though the party designating the information as confidential was now-terminated defendant CardWorks Servicing, LLC ("CardWorks"). Paragraph 11 of the Agreed Protective Order makes clear that it was the responsibility of the designating party, CardWorks, to file a motion to seal under these circumstances. The Order states:

In the event no agreement is reached for the filing of a redacted version [of CONFIDENTIAL MATERIALS or CONFIDENTIAL-AEO MATERIALS], the party seeking to file such CONFIDENTIAL MATERIALS or CONFIDENTIAL-AEO MATERIALS shall file such material in accordance with Local Rule 5(B) & (D). *The designating party* shall file a motion to Motion to File Under Seal simultaneously with *the other party's* filing and within five (5) days thereafter shall file a supporting memorandum that complies with requirements of Local Rule 5(C).

(Dk. No. 39 at 5 (emphasis added).) CardWorks has not filed a motion to seal or a memorandum in support of Experian's motion to seal. In fact, none of the parties have explained why the information in question has been designated as confidential. Instead, *Experian* has stated,

“Counsel for CardWorks informed the undersigned counsel that both the Federal Deposit Insurance Corporation (“FDIC”) and CardWorks potentially oppose the release of the information contained in the email” (Dk. No. 44 at 2.) If CardWorks and the FDIC oppose the release of the information, they must say so unequivocally in a pleading filed with the Court. Neither one has done so.

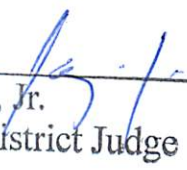
On November 1, 2012, an agreed order of dismissal with prejudice was entered as to defendants CardWorks, Inc. and CardWorks Servicing, LLC. Consequently, the party actually designating the information as confidential is no longer a party to this suit. The motion to seal is therefore DENIED, and the Court ORDERS that Experian file an unredacted version of its memorandum in support of its motion for partial summary judgment in place of the redacted version filed on October 5, 2012. (See Dk. No. 46.) Experian must file the unredacted memorandum within five (5) days of the date of this Order.

If the FDIC still wishes to keep the information sealed, Experian may file a new motion to seal with a supporting affidavit from the FDIC.

It is so ORDERED.

The Clerk is directed to send a copy of this Order to all counsel of record.

Date: November 1, 2012
Richmond, VA

<p style="text-align: center;">/s/  John A. Gibney, Jr. United States District Judge</p>
